

Can a criminal be rehabilitated back into society

Society



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The purpose of this paper is to research the whole subject of criminals and their rehabilitation. This is a discussion of what society's responsibility in this matter is and how to approach whether it is reform or punishing those who commit the crime. Should a criminal who claims insanity be rehabilitated into society? This is a common argument that many people find themselves wondering if such thing is possible when a heinous crime has been committed. It is stated that juries find for only about 20 percent of the defendants who plead insanity. Sixty to 70 percent of insanity pleas are for crimes other than murder.

They range from assault to shoplifting. There are some opponents that attack the insanity defense for confusing psychiatric and legal concepts, in the process undermining the moral integrity of the law. During the 150 years or so the insanity defense has been and still is an issue in the U. S. within our criminal law and the medical psychology that have gone through many tireless changes in the criminal responsibility and the mental illness relationship. Ignoring this issue we may have steered away from an important source in our struggle with this type of defense.

The United States Federal law states that insanity is a fair defense if at the time of the commission of the acts constituting the offense, the defendant as a result of a severe mental disease or defect, was unable to appreciate the nature and quality of the wrongfulness of his or her acts. When invoking insanity as a defense, a defendant is required to notify the prosecution. In some states, sanity is determined by the judge or jury in a separate proceeding following the determination of guilt or innocence at trial.

In other states, the defense is either accepted or rejected in the verdict of the judge or jury. Even if evidence of insanity does not win a verdict of not guilty, the sentencing court may consider it as a mitigating factor. The criminal justice system under which all men and women are tried holds a concept called mens rea, a Latin phrase that means "state of mind".

According to this concept, criminals committed who commit their crimes are oblivious of the wrongfulness of their actions.

A mentally challenged person, including one with mental retardation, who cannot distinguish between right and wrong is protected and exempted by the court of law from being unfairly punished for his/her crime. Insanity, what does that word mean? I don't have a clear cut definition for it but for most of us when we think of that word we think of someone mentally ill or just plain crazy. Does insanity makes us loose the thought of moral value and or our justification from right from wrong? It is stated that most socially recognized authorities such as psychiatrists, medical doctors, and lawyers agree that it is a brain disease.

Let say it is a brain disease should we link insanity with other brain diseases like strokes and Parkinsonism? Unlike these two diseases, whose causes can be medically accounted for through a behavioral deficit such as paralysis, and weakness, how can one explain the behavior of crimes done by such criminals? Doctor's and psychiatrists describe what they say insanity is a neurological illness explaining it to a jury a person's or in this case a criminal's reason and behavior. It rarely excuses it. Insanity is now considered a legal concept not a medical diagnosis.

The most widely known rule in the insanity defense refers to the M'Naghten rule which arose in 1843 during the trial of Daniel M'Naghten who pleaded that he was not responsible for his murders because he suffered from delusions at the time of that he committed the crime. The rule states that a criminal defendant may be excused from criminal responsibility if at the time of the crime, the person accused was laboring under such a defect of reason, from a mental illness, as not to know the nature and the quality of the act he or she was doing.

The biggest problem I feel is that with the insanity defense is either examined from a legal angle or a psychoanalytical one which involves talking to people and taking many tests. These tests so far show no proof of confirming the causal relationship between mental illness and the criminal behavior based on a deeper neurological working of the brain sciences. Many doctors and or professionals seemed to find themselves in a double bind where with no clear medical definition of mental illness, he/she must answer questions of legal insanity- beliefs of human rationality, and free will instead of basing it on more concrete scientific facts.

For example, let us use a case study to elaborate the argument that law in this country continues to regard insanity as a moral and legal matter rather than ones based on scientific analysis. Remember the insanity case of Andrea Yates which occurred in Houston, Texas in 2002. In March 2002, a panel of Texas jurors debated her fate. A devoted mother with a history of postpartum psychosis, hallucinations, and two suicide attempts, Yates admitted to drowning her five children in a bathtub. Prosecutors conceded

that Yates was mentally ill but knew right from wrong and so was not legally insane at the time of the murders.

Under the law, jurors could not be told that Yates would be hospitalized if she were found NGRI. The jury rejected her claim of mental illness, found her guilty, spared her the death penalty but sentenced her to life in prison. At least there Yates would be kept in protective custody because of her ongoing mental problems and possible threats from other inmates and unless she needed intensive psychiatric care she would eventually mingle with the general population at the prison known for housing some of the toughest, meanest women in Texas. Yates's symptoms are controlled by medication.

How about rehabilitating the insane, is it possible or how are we the society should deal with this issue? Rehabilitation is based on the idea that the criminal violation resulted from inadequate socialization of the offender; it represents an effort to provide some counseling and practical training that can aid an offender and therefore weaken or remove the stimuli that led him or her to committing the crime. Can we just say that the person with the mental illness is not capable of being normal or distinguishing right from wrong so we should just lock them up and throw the key away?

One might wonder if criminals use the insanity defense to escape punishment. After all a crime had been committed and therefore they too should be punished maybe not as a normal criminal but with the proper medical assistance needed for their behavior can be controlled. Some of these individuals can in fact be rehabilitated back into society by properly giving them the right medication and not just sending them to jail where

they get no help. If in fact the insanity defense is successful the offender then is placed in psychiatric hospital or the psychiatric ward of a state prison which are secured facilities.

Many offenders who plead insanity are nonviolent offenders, and most if not all will stay at the hospital longer than they would if they were going to prison if had been convicted of the crime that they were accused of. Again the insanity does not always bring freedom but indeterminate detention. The defense by which defendant argue that they should not be held criminally liable for breaking the law due to being legally insane when at the time the crime occurred. The defendants who attempt such defense will undergo mental examinations beforehand.

There are four various insanity defense standards. The first is the M'Nagthen rule which the standard is whether or not he or she did not know what he or she was doing or didn't know it was wrong. The burden of proof varies, from proof by a balance of probabilities on the defense to proof a beyond a reasonable doubt on the prosecutor and or depending on the state jurisdiction. The second is the irresistible impulse test which legal standard is if he or she could not control his conduct.

The third is the substantial capacity test. The legal standard is if he or she lacks the substantial capacity to appreciate the wrongfulness of his conduct or to control it and the burden of proof is beyond reasonable doubt and rests on the prosecutor. The fourth test is the Present federal law which indicates if he or she lacks the capacity to appreciate the wrongfulness of his or her

conduct. The burden of proof is clear and convincing evidence and rests on the defense.

The insanity defense shouldn't be confused with incompetency. Individuals who are incompetent to stand trial are held in a mental institution until they are considered capable of participating in the proceedings. The insanity defense should also be kept separate from issues concerning the mental retardation. In the case in 2002 *Atkins v. Virginia* the U. S. Supreme Court ruled that the execution of the mentally retarded criminals constituted the cruel and unusual punishment and it was prohibited by the 8th Amendment.

If a criminal is acquitted by reason of insanity then execution was not an option. The insanity defense has contributed to making the law more humane. The criminal justice system seeks to protect the public, with the main goal of the mental health system in treating and rehabilitating individuals with some sort of mental illness. Another issue is what critics contend that the insanity defense undermines the functioning of the criminal justice system. Wealthy defendants are able to hire experts and have the advantage over the indigent.

The defense may be exploited by perfectly sane defendants who have the resources to conclude a credible defense. The wealthy defendant who pleads insanity usually hires his or her own medical team to be evaluated. This often leads to corruption in a rich man's trial, because the wealthy can afford to buy their doctor's verdicts. This is very unfair in that, the wealthy can afford to hire expensive doctors and defenses and are more likely to get off

with a non-guilty verdict whereas the poor man or middle class man has less of a chance even if they are actually insane.

This presents a violation of the very basic concept that all people, regardless of their wealth or social status, should be given the equal treatment they deserve when in a court of law, but that is not always the case. Some studies have shown that as many as 70 percent of NGRI defendants withdrew their plea when a state-appointed expert found them to be legally sane.

Individuals in this type social status are using the insanity plea as a way to get away with their crime and not have to be punished.

If a person is truly insane and cannot be counted on to know the difference between right and wrong, this should be seen beforehand by medical doctors, declared insane and then taken out of society's reach for the safety of the innocent. Those who are harmful to the public should be kept away, not as a measure of cruelty but for the one with mental illness they should get the proper care in a secure facility and once they are sane than be transferred to a prison facility. The law states that we have the same rights no matter what our social status is so therefore should get the same treatment.

That is not always the case though. It is difficult even for doctor's to really determine if the defendant really was insane when the crime was being committed. To really understand the nature of the insanity defense one must go back and look at where and how it started. In today's insanity cases, mental health experts, doctors, and scientists have important roles to play. They can inform the jury of the nature of the defendant's mental illness, the

likeliness that the crime might be repeated, and whether the defendant may bring harm upon himself/herself.

However, like any court case, there will always be divided opinions amongst the mental experts regarding the outcome of the case depending on whether they testify for or against the defendant. Dangerous mentally ill offenders should be confined appropriately to proper treatment facilities while receiving care. Mentally ill offendersI believewould be less of a financial burden to society since they would be able to return to society as productive members following their required treatment. Many mentally ill offenders would no longer be sentenced as if they had the mens rea required for committing the crime.

Instead, mentally ill offenders would receive a constitutionally valid sentence that is proportional to their degree of culpability, thus accurately reflecting the criminal justice system's notion of criminal culpability. References:

Anniken Davenport (2009), *Basic Criminal Law: The Constitution, Procedure, and Crimes*, 2nd Edition, Upper Saddle River, NJ: Prentice Hall. Paul B.

Weston & Kenneth M. Wells & Marlene Hertoghe (1995), *Criminal Evidence for Police*, 4th edition, Upper Saddle River, NJ: Prentice Hall. Larry J. Siegel

(2004), *Criminology: Theories, Patterns, & Typologies*, 8th edition, Belmont, Ca. Wadsworth/Thompson

Kenneth J Peak (2003), *Policing in America: Methods, Issues, Challenges*, 4th edition, Upper Saddle River, NJ: Prentice

Hall. References: Anniken Davenport (2009), *Basic Criminal Law: The*

Constitution, Procedure, and Crimes, 2nd Edition, Upper Saddle River, NJ: Prentice Hall. Paul B. Weston & Kenneth M. Wells & Marlene Hertoghe

(1995), *Criminal Evidence for Police*, 4th edition, Upper Saddle River, NJ:

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Prentice Hall. Larry J. Siegel (2004), *Criminology: Theories, Patterns, & Typologies*, 8th edition, Belmont, Ca. : Wadsworth/Thompson

Kenneth J Peak (2003), *Policing in America: Methods, Issues, Challenges*, 4th edition, Upper Saddle River, NJ: Prentice Hall. Todd R. Clear & George F. Cole (2003), *American Corrections*, 6th edition, Belmont, Ca.

Wadsworth/Thompson Frank Schmalleger (2002), *Criminal Justice: A brief introduction*, 4th edition, Upper Saddle River, NJ: Prentice Hall. Todd R. Clear & George F. Cole (2003), *American Corrections*, 6th edition, Belmont, Ca.

Wadsworth/Thompson Frank Schmalleger (2002), *Criminal Justice: A brief introduction*, 4th edition, Upper Saddle River, NJ: Prentice Hall.